

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

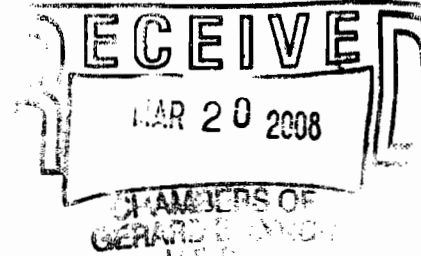
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MENTAL HYGIENE LEGAL SERVICE,

Plaintiff,  
and SHAWN SHORT,  
Intervening Plaintiff,

-v.-

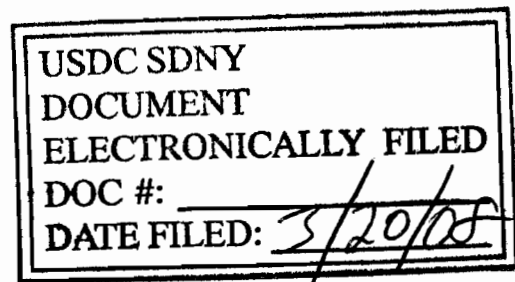
ELIOT SPITZER, in his official capacity as  
Governor of the State of New York,  
ANDREW CUOMO, in his official capacity as  
Attorney General of the State of New York,  
MICHAEL HOGAN, in his official capacity  
as Commissioner of the New York State Office  
of Mental Health, DIANA JONES RITTER, in her  
official capacity as Commissioner of the New York  
State Office of Mental Retardation and  
Developmental Disabilities, and BRIAN FISCHER,  
in his official capacity as Commissioner of the New  
York State Department of Correctional Services,

Defendants.  
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DISCOVERY PLAN

Docket No. 07-CV-2935 (GEL)



Pursuant to Fed. R. Civ. P. 26 (f), after consultation between Sadie Zea Ishee, Esq., attorney for Plaintiff Mental Hygiene Legal Service, and Joshua Pepper, Esq., Assistant Attorney General, Attorney for Defendants, the following civil case management plan is proposed:

1. Initial disclosures, as set forth in Rule 26 (a), shall be exchanged by counsel no later than April 18, 2008.
2. The parties jointly propose to the court the following discovery plan:
  - (A) Discovery may be needed on the following subjects:

(i) The use of securing petitions under MHL 10.06 (f) (including empirical

information about any instances in which securing petitions have been used to date and any policy or practice relevant to the use of securing petitions in the future)

(ii) Pre-trial detention pursuant to MHL 10.06 (k) (including empirical information about the length, location and propriety of pretrial detention in Article 10 cases to date)

(iii) The use of Article 10 proceedings against CPL 730 defendants (including statistical information about the number of persons potentially eligible for commitment under this provision statewide and the dates of these persons' alleged criminal offenses and any policies or practices relevant to Article 10 proceedings against such persons)

(iv) The use of Article 10 proceedings against offenders whose offenses may contain an element of sexual motivation, as defined in 10.07 (c) (including statistical information about the number of persons potentially eligible for commitment under this provision statewide and the dates of these persons' alleged offenses; information about any instances in which "sexually motivated" offenders have been considered for management under the Act to date; and any policies or practices relevant to Article 10 proceedings against such persons)

(v) Psychiatric examinations conducted under MHL 10.05 (e) (including empirical information about how many such exams have been conducted so far, how many resulted in the filing of an Article 10 petition against a respondent, and the percentage of those cases in which the examiner conducting the MHL 10.05 (e) exam went on to testify against the respondent at probable cause or trial; information about the content and extent of notice provided to inmates prior to the MHL 10.05 (e) examinations, etc.)

(vi) Length of Article 10 proceedings, including empirical information on the number of adjournments or other delays in the process.

(B) Disclosure or discovery of electronically stored information should be handled as follows: any discoverable electronic information produced pursuant to a discovery request shall be produced either in electronic PDF format, TIFF files, or in hard copy, at the producing party's discretion.

(C) All discovery shall be commenced in time to be completed by December 22, 2008. The parties agree to the following discovery limits, to be altered only for good cause shown:

(i) First request for production of documents shall be served by May 1, 2008.

Responses shall be due within 30 days of the date of service.

(ii) Depositions shall be completed no later than November 7, 2008.

(iii) All interrogatories shall be in accord with Local Rule 33.3 (a), and shall be served no later than November 21, 2008.

(iv) Experts, if any, shall be designated by September 12, 2008, and experts' reports exchanged no later than October 10, 2008.

(v) Requests for Admission, if any, are to be served no later than December 12, 2008.

(D) All potentially dispositive motions shall be filed by January 30, 2009.

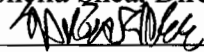
(E) The parties do not request a conference with the court before entry of the scheduling order.

3. Nothing in this Discovery Plan may be construed as an admission that such information is relevant to the Constitutionality of the challenged provisions of the Sex Offender Management and Treatment Act.

Dated: New York, New York  
March 18, 2008

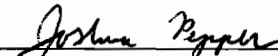
Attorney for Plaintiff:

MENTAL HYGIENE LEGAL SERVICE  
Marvin Bernstein, Director, 1<sup>st</sup> Dept.  
Sidney Hirschfeld, Director, 2<sup>nd</sup> Dept.  
Sheila Shea, Director, 3<sup>rd</sup> Dept.


  
By: Sadie Zea Ishee, Esq.  
41 Madison Avenue, 26<sup>th</sup> Floor  
New York, New York 10010  
(212) 779-1734 (tel.)  
[sishee@courts.state.ny.us](mailto:sishee@courts.state.ny.us) (email)

Attorney for Defendants:

ANDREW CUOMO  
Attorney General of the State of New York

  
By: Joshua Pepper, Esq.  
120 Broadway, 24<sup>th</sup> Floor  
New York, New York 10271  
(212) 416-8567 (tel.)  
[joshua.pepper@oag.state.ny.us](mailto:joshua.pepper@oag.state.ny.us) (email)

SO ORDERED:

  
GERARD E. LYNCH  
U.S.D.J.  
3/20/08